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SUBJECT: UKRAINIAN ELECTIONS: A NEW ORANGE COALITION COULD
FORM THE NEXT GOVERNMENT

Classified By: Political Counselor Kent Logsdon for reasons 1.4(a,b,d).

¶1. (C) Summary: A renewed "orange coalition" could potentially capture enough Rada seats to form the new government, according to several nationwide exit polls. As of noon October 1, counting continues and the Central Election Commission (CEC) has posted about 54% of the results, although there is some concern about the slow pace of returns from several key districts, mainly in the East. Statements from international observers including OSCE/ODIHR on the conduct of the election are expected in the afternoon of October 1; the International Republican Institute issued a statement concluding that the elections generally met international standards and the head of the European Parliament delegation pronounced the elections conducted in line with "European standards." Based on our observer reports from around the country and press updates, there was little evidence of massive fraud, although all agree that the voting lists around the country were in poor shape, leaving open the possibility for falsification of the vote, and that the new law tasking the Border Guards with providing lists of individuals outside of the country 72 hours before the vote was poorly implemented and a source of confusion for polling stations everywhere.

¶2. (C) Comment: With the counting underway, the dance of coalition building has begun. Buoyed by positive exit poll results and exuding confidence, Yuliya Tymoshenko told supporters that she would go to President Yushchenko October 1 with a proposal to begin forming a coalition and a new government, that could feature an Our Ukraine Rada speaker. OU-PSD leaders told the press that they were ready to support Tymoshenko as PM. Prime Minister Yanukovich told supporters that Regions had won the election and that the party was ready to open negotiations on forming a government. The streets are quiet in Kyiv, although Regions has constructed a large stage on the Maidan and called for a rally at 4 pm on October 1. OU-PSD has set up its stage on European Square, a short distance away. Thus far, no party has filed court challenges to any election results as they await the final preliminary numbers from the CEC. End Summary and Comment.

The Results Looking Orange

3, (SBU) CEC began posting preliminary results on its website soon after the polls closed. At 12 noon, Ukrainska Pravda, citing the CEC, reported that with 54.53 percent of the vote counted, BYuT had 33.23% of the vote; Regions 30.76 percent; OU-PSD 15.55 percent; Communists 5.08 percent; Lytvyn 4.17 percent and the Socialists at 3.13 percent. However, these are only preliminary results rather than a scientific sampling and all polls agree that the Regions party will end up winning a plurality of the vote and the Socialist party will not make it over the 3 percent threshold. Speaking to the press, CEC Commissioner Mikhail

Okendovskiy predicted that the CEC preliminary results will be complete by the end of the day on October 1.

4, (C) Throughout the night, CEC results have slowly come in, and have been especially slow from eastern and southern regions, Mid-way through the evening, BYuT alleged that this was an attempt initiated by Party of Regions to falsify vote counts, a problem that occurred in the second round of the 2004 presidential election, and appealed to law enforcement authorities to ensure that polling commissions resume counting votes. CEC Chairman Shapoval, talking to the press at 10 am on October 1 said that four territorial election commissions (TEC) -- two in Donetsk, one in Dnipropetrovsk and one in Cherkasiy -- are refusing to provide results to the CEC. According to Shapoval, the TEC's in question have told the CEC that they need to receive protocols from all of their polling places because there were problems in several polling places that may require a recounting of some votes. Shapoval said that he hoped the situation would be cleared up soon, but that this was something that was "not under the CEC's control." According to the law, the CEC has 15 days to publish the final results of the election. Voter turnout was high; the CEC, announced a turnout of 62.93 percent based on reporting from 181 of 225 territorial commissions, although there were oblasts throughout the country that reported 70 to 80 percent turnout including Ternopil, Lviv, Ivano-Frankivsk and Volyn -- all in the west. Interestingly, Zakarpattiya oblast, also in the far west, was at the bottom of the list with only a 51.99 percent turnout. The election was declared valid at 8:30 pm on September 30, once voter turnout surpassed the 50 percent mark, another requirement of the new election law as amended on June 1.

15. (SBU) The results of the National Exit Poll, initially

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released at 10:01 pm September 30, immediately after the polls closed, and then updated in the early morning hours to reflect the final hours of voting, caused a sensation among orange supporters. The exit poll results showed Regions with 35.5 percent (179 seats); BYuT with 31.5 percent (159 seats); Our Ukraine-People's Self Defense with 13.4 percent (67 seats); the Communist Party with 5.1 percent (26 seats) and Lytvyn People's Party with 3.7 percent (19 seats), giving a combined "orange" BYuT and OU a bare minimum majority (226 seats required). The poll, conducted by well-respected Democratic Initiatives Fund in collaboration with the Razumkov Center and KIIS, was partly USG-funded.

16. (SBU) The majority of other exit polls released soon after voting ended, offered remarkably consistent results; all showed the same five parties making it past the 3 percent threshold to get into the Rada and gave the "orange" team a slim majority. The Regions' exit poll, paid for by Region's financier Rinat Akhmetov using the well-respected marketing firm "Research and Branding," produced similar results to the other polls, although denied orange its majority by projecting a combined 224 seats for BYuT and Our Ukraine, two short of a majority.

Conduct of the Election - More Confusion than Fraud

17. (C) In the field, USG and other international observers saw no evidence of efforts to conduct massive fraud, although there were reports from all over the country that the poor quality of voter lists were a challenge for polling stations and a potential conduit for falsifying the vote. Observers reported that many commissions acted professionally, attempting to make pragmatic decisions in response to problems raised at the polling places. In most cases, they made diligent efforts to cross off duplicate voters from the list and to correct minor errors with regard to names and addresses. In our judgment, many more voters were not able to vote because of errors in the voter lists, rather than problems with the law that did not allow individuals outside

the territory of Ukraine within 72 hours to participate in the vote (see paragraph 10 below). Although not permitted under the current election law, it appears that many voters who found themselves off the voter lists simply went to court and obtained orders permitting them to vote -- a practice that was widely and legally used during the March 2006 elections. USG observers also reported disorganization during the vote count and long delays in filling out protocols and filing results with the Territorial Election Commissions, but no apparent problems with the counting or the completion of the protocols themselves.

18. (C) There were regular reports from all the political parties during election day about reports of fraud and falsifications of the vote. A USG team witnessed one such effort in Zakarpattiya oblast (home of Presidential Administration and OU-PSD campaign head Baloha) when over four days, a voter list at a hospital ballooned from 127 to more than 700 registered voters. In Mariupol in Donetsk oblast, another USG team watched a rayon administration go to extraordinary efforts to rally the vote in the final hours of election day, as poll workers knocked on doors and encouraged voters to board buses provided by the local administration. And in Poltava, another USG team witnessed an oblast administration official taking information off a voter list. There were reports of extra ballots ordered in Donetsk at the last minute and the press reported incidents of vote-buying and efforts to vote multiple times from around the country.

19. (C) The use of the mobile ballot box, administratively made easier to request due to changes in the election law this time, appeared to have been generally used responsibly as a way for the elderly and infirm to vote. Most USG observers reported reasonable numbers of requests for the mobile ballot box at each polling station, with corresponding hand-written requests as required by law on file. However, observers also saw individual polling stations with larger-than-usual numbers of mobile ballot requests and documented irregularities with the way the voting urn was transported to at-home voters. According to the CEC website, the results from mobile ballot boxes are up to 10 percent of the vote in some territorial election commissions scattered throughout the country. Although this may not have been a conduit for massive fraud, it appears clear that the loosening of restrictions on the use of the mobile ballot box, for example, a doctor's letter is no longer required, meant that it was improperly used to increase vote totals in some districts.

10. (C) A more serious issue on election day was the

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complicated process of implementing the election law's new provisions denying the right to vote to anyone outside of the territory of Ukraine within 72 hours of the opening of the polls. According to the law, the State Border Guard Service was given the responsibility of collecting the data on entry/exit into the country (a procedure which caused huge lines at immigration at Kyiv's Borispyl Airport for the weeks leading up to the election) and then providing information to the 34,000 polling stations around the country to enable them to strike ineligible voters from their lists. This led to mass confusion at polling stations around the country and the disenfranchisement of voters, estimated by the NGO Committee of Voters of Ukraine to number about 570,000 or one percent of the total vote. In reality, according to USG observers, only about half of all polling stations received lists from Border Guards, and in some places, like Sumy oblast, it appears that no lists were ever provided to individual polling stations. Of those polling stations who did receive lists, only some chose to strike voters from their lists. In one amusing anecdote retold in the press, the mayor of Donetsk and his wife were denied the right to vote -- an error made by the Border Guards after the mayor returned from a trip abroad on September 3 -- well outside the 72-hour window for being present in the country (Note. At the end of the

day, as happened with many voters who were struck off the lists in many parts of the country, the mayor was permitted to vote. End note.)

International Observers Say Mostly Free and Fair

¶11. (C) The first international observers have described the September 30 election as generally up to international standards. One of the first to comment was the head of the European Parliament's observation delegation, Adrian Severin, who said that the elections in Ukraine were in accordance with European standards in spite of "a number of violations, in spite of definite steps backward (with regard to past elections)." However, "the results could not be doubted, could not be contested." The U.S. International Republican Institute (IRI), issued a statement at 10 am Kyiv time with the headline "Ukraine's Elections Generally Meet International Standards: Steps Need to be Taken to Improve Voter Confidence." IRI assessed the election as "broadly meeting international standards," but highlighted problems that Ukraine needed to resolve prior to its next national election. On the positive side, IRI credited election officials with doing a professional job in a confusing environment and political parties with participating fully as commissioners and observers. IRI also gave the campaign high marks for its openness and access of candidates to media. On the negative side, IRI mentioned the serious problems with the voter lists and the last-minute CEC changes in policy that confused the electorate, which according to IRI staff, was a way of obliquely referring to the difficulties involved in Border Guard list issue.

¶12. (C) According to IRI staff, the statement was coordinated with the OSCE team from ODIHR which is scheduled to release its preliminary assessment at 1330 Kyiv time October 1. The National Democratic Institute (NDI) is expected to issue its statement at 1430 Kyiv time. We expect that other western governments will follow suit and release similar statements once the ODIHR report has been published.

¶13. (C) Statements of Russian political commentators carried in the press generally promoted the idea of a broad coalition, especially in the context of the upcoming Duma elections and presidential elections in both countries. One commentator likened BYuT's good showing in the polls as the emergence of a "third force" in response to conflict between President and Prime Minister. Long-time Russian commentator Gleb Pavlovskiy told the press that he believed that the results of the pre-term elections would not bring stability to Ukraine, but the opposite -- it would lead to crisis. According to Pavlovskiy, President Yushchenko needs to "take control of the process" and create a broad coalition involving all three major parties, Regions, BYuT and Our Ukraine," as a government of national unity that would be attractive for the Ukrainian people.

The Next Coalition - Let the Games Begin!

¶14. (SBU) At mid-day on October 1, all of the parties are beginning to emerge and talk about next steps. Yuliya Tymoshenko has already announced her intention to meet with the President and talk about the possibility of forming a coalition and a new government within days of the CEC's announcement of the final election results. She told the

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press that she is prepared for Our Ukraine to take the Speaker's post in a new orange government. OU-PSD leader Yuriy Lutsenko told the press that his bloc is prepared to support Tymoshenko as the next Prime Minister. Lutsenko's colleague OU leader Kyrylenko told the press that the new orange coalition is eager to quickly form a government and to introduce new legislation, including a new budget draft.

¶15. (SBU) On the blue side, PM Yanukovych told the press that Regions won the election (and they are expected to win a plurality according to every exit poll) and that they will begin the process of negotiating with all of the parties that cross the 3 percent threshold regarding the possibility of forming a coalition and a new government. Regions' faction leader Raisa Bohatyreva went a step further and told the press that Regions was eager to talk to other parties about forming a broad coalition. DPM Tabachnyk went the other direction, telling the press that he was praying for the establishment of an orange coalition since that would ensure a Regions' victory in the presidential election in 2009 or ¶2010.

¶16. (C) While we all watch the CEC returns posted TEC by TEC, the parties have thus far refrained from launching the court challenges to the results of the elections that many have feared could tie up the country in knots for weeks to come. Regions has constructed a stage at the Maidan and is calling for a rally at 4 pm October 1. Thus far, there is no evidence of the 50,000 people descending upon Kyiv predicted by CVU head Ihor Popov at the end of the election. In nearby European square, a large OU-PSD stage has also been set up in front of Ukrainian house, although OU leaders tell us that it is intended for a celebration rather than a mass protest. Although there is plenty of political maneuvering behind the scenes, it is likely that all the major political players will wait for the rest of the CEC's preliminary results, expected by day's end October 1, before making their next moves in response to this extraordinarily close race.

¶17. (U) Visit Embassy Kyiv's classified website:
www.state.sgov.gov/p/eur/kiev.
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